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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,460	08/03/2001	Uwe Sydon	2001P11177US	1376

7590 08/11/2004

Siemens Corporation  
Attn: Elsa Keller, Legal Administrator  
Intellectual Property Department  
186 Wood Avenue South  
Iselin, NJ 08830

EXAMINER
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NGUYEN, JOSEPH D

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 08/11/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/922,460

Applicant(s)

SYDON, UWE

Examiner

Joseph D Nguyen

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Objections*

1. Claims 4-9, 11-16, and 18-22 are objected to because of the following informalities:

Regarding claims 4-9, 11-16 and 18-22, these claims were changed from "wherein" to "further characterized in that", even though, they are not changing the meaning of the claims invention. However, they are needed to change from original to amending for the record purpose and for the printing of the document. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 5-7, 9-13, 15-18, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Rezaiifar et al. (6,526,030).

Regarding claim 1, Rezaiifar et al. discloses a method of changing a physical data rate of an air interface on a per channel basis (abstract, 1-3, col. 9 lines 53-67), the method comprising:

a) providing a plurality of logical communication channels, the plurality of logical communication channels being configured to communicate a signal (abstract, fig. 3-5, col. 7 lines 30-41);

b) providing a control channel that assigns data rates to the plurality of logical channels (col. 9 line 53 thru col. 10 line 17); and

c) changing the data rates of the plurality of logical channels on a per channel basis (fig. 4-6, col. 9 line 53 thru col. 10 line 39, and col. 11 line 66 thru col. 12 line 5).

Regarding claim 2, Rezaiifar et al. further discloses the method of claim 1, further comprising providing a high data rate channel (abstract, col. 8 lines 5-24).

Regarding claim 5, Rezaiifar et al. further discloses the method of claim 1, further characterized in that the plurality of logical communication channels operate at a data rate selected by the control channel (col. 3 line 33-43).

Regarding claim 6, Rezaiifar et al. further discloses the method of claim 5, further characterized in that the selected data rate is a multiple of a basic data rate (plurality of data rates) (col. 2 line 33-43).

Regarding claim 7, Rezaiifar et al. further discloses the method of claim 1, further characterized in that logical communication channels having a high data rate communicate data information (abstract, col. 8 lines 5-24) and logical communication channels having a low data rate communicate voice information (abstract, col. 8 lines 5-24).

Regarding claim 9, Rezaiifar et al. further discloses the method of claim 1, further characterized in that, the signal is communicated between a portable telephone and a base station (fig. 8C).

Regarding claim 10, Rezaiifar et al. discloses an air interface (fig. 2 col. 5 lines 35-54) comprising:

- a) at least one logical communication channel configured to communicate a signal (abstract); and
- b) a control channel that assigns a data rate to each of the at least one logical communication channel (col. 9 line 53 thru col. 10 line 17), the control channel being configured to change the data rate assigned to each of the at least one logical communication channel (fig. 4-6, col. 9 line 53 thru col. 10 line 39, and col. 11 line 66 thru col. 12 line 5).

Regarding claim 11, Rezaiifar et al. further discloses the air interface of claim 10, further characterized in that the control channel changes the data rate assigned to each of the at least one logical communication channel based upon information about data communicated with the signal (col. 3 lines 34-43).

Regarding claim 12, Rezaiifar et al. further discloses the air interface of claim 11, further characterized in that the information about data communicated with the signal comprises data type information (voice and data) (col. 8 lines 5-15).

Regarding claim 13, Rezaiifar et al. further discloses the air interface of claim 11, further characterized in that the information about data communicated with the signal comprises signal quality information (col. 2 lines 57-65).

Regarding claim 15, Rezaiifar et al. further discloses the air interface of claim 10, further characterized in that the control channel includes interfered carrier information (col. 5 lines 27-32).

Regarding claim 16, Rezaiifar et al. further discloses the air interface of claim 10, further characterized in that the control channel uses cyclic redundancy checks (CRC) to determine whether the at least one logical communication channels are disturbed (col. 5 line 64 thru col. 6 line 37).

Regarding claim 17, Rezaiifar et al. discloses a wireless communication system which provides for low data rate services as well as higher data rate services without a reduction in sensitivity characteristic to switching modulation schemes (abstract, fig. 1), the communication system comprising:

- a) a communication device capable of receiving and sending communication signals (#6 fig. 1-2, col. 5 lines 13-34);
- b) a base station capable of receiving and sending communication signals (#4 fig. 1-2, col. 5 lines 13-34); and
- c) an air interface of wireless communications between the communication device and the base station (#24 fig. 2, col. 5 lines 35-63), the air interface including a control channel (abstract, fig. 3-4) and a plurality of logical communication channels (abstract, fig. 3-4, col. 7 lines 30-41), the control channel changing data rates to the plurality of logical communication channels on a per channel basis (col. 9 line 53 thru col. 10 line 17).

Regarding claim 18, this claim is rejected for the same reason as set forth in claim 2.

Regarding claim 20, this claim is rejected for the same reason as set forth in claim 7.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-4, 8-9, 14, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rezaiifar et al (6,526,030) in view of Sayers et al. (6,729,929).

Regarding claim 3, Rezaiifar et al. further discloses the method of claim 1, further comprising using a frequency hopping spread spectrum method to transmit the signal over the plurality of logical communication channels (abstract). However, Rezaiifar et al. does not specifically disclose a frequency hopping spread spectrum method.

Sayers et al. teaches a frequency hopping spread spectrum method (col. 3 lines 65-67). Therefore, it would have been obvious to one ordinary skilled in the art at the time the invention was made to modify the Rezaiifar et al. with the teaching of the Sayers et al. of a frequency hopping method in order to assign the channel to the mobile terminal with request rate and to avoid deadspots.

Regarding claim 14, this claim is rejected for the same reason as set forth in claim 3.

Regarding claim 4, Rezaiifar et al. further discloses the method of claim 1, further characterized in that the control channel operates at the data rate (abstract, col. 3 lines 6-43), thereby using a lowest bandwidth and ensuring best sensitivity. However, Rezaiifar et al. does not specifically disclose the control channel operates at a lowest possible data rate, thereby using a lowest bandwidth and ensuring best sensitivity.

Sayers et al. teaches the control channel operates at a low data rate, (col. 3 lines 44-50). Therefore, it would have been obvious to one ordinary skilled in the art at the time the invention was made to modify the Rezaiifar et al. with the teaching of the Sayers et al. of control channel with operates at a low data rate in order to utilize most of the channels capacity for physical traffic channels.

Regarding claim 19, this claim is rejected for the same reason as set forth in claim 4.

Regarding claim 8, Rezaiifar et al. further discloses the method of claim 7, wherein the high data rate and the low data rate (col. 13 line 46 thru col. 14 line 14). However, Rezaiifar et al. does not specifically discloses the high data rate is between 32 k bits/sec and 256 k bits/sec and the low data rate is between 16 k bits/sec and 32 k bits/sec.

Sayers et al. teaches the high data rate is between 32 k bits/sec and 256 k bits/sec (col. 4 lines 14-39) and the low data rate is between 16 k bits/sec and 32 k bits/sec (col. 4 lines 14-39). Therefore, it would have been obvious to one ordinary



skilled in the art at the time the invention was made to modify the Rezaiifar et al. with the teaching of the Sayers et al. of logical channel of data rate in order to provide the mobile terminal with the data rate requesting.

Regarding claim 21, this claim is rejected for the same reason as set forth in claim 8.

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rezaiifar et al (6,526,030) in view of Fazel et al. (6,275,506).

Regarding claim 22, Lomp et al. further discloses the communication system of claim 17, wherein the communication device is a remote station (#6 fig. 2). However, Lomp et al. does not specifically disclose the communication device is a personal digital assistant (PDA).

Fazel et al. teaches the communication device is a personal digital assistant (PDA) (col. 1 lines 4-15). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify Lomp et al. system with the teaching of Fazel et al. of the device system is a personal digital assistant (PDA) in order to provide customer the choice of wireless device for transmit and receiving variable data rate.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

8. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Or faxed to:

703 308-9051, (for formal communication intended for entry)

Or:

(703) 305-9509 (for informal or draft communications, please label  
"PROPOSED" OR "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121  
Crystal Drive, Arlington, VA. Sixth floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D Nguyen whose telephone number is (703) 605-1301. The examiner can normally be reached on 7:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (703) 308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

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Joseph Nguyen



Jul. 27, 2004



WILLIAM TROST  
SUPERVISORY PATENT EXAMINER  
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